

**United States District Court
Northern District of New York**

| | | |
|-------------------------------|---|--|
| Hannah L., |) | Case No. 5:23-cv-01091 |
| <i>Plaintiff,</i> |) | |
| |) | David N. Hurd |
| v. |) | United States District Court Judge |
| |) | |
| Martin O'Malley, ¹ |) | Mitchell J. Katz |
| Commissioner of the Social |) | United States Magistrate Judge |
| Security Administration, |) | |
| <i>Defendant.</i> |) | Motion – Document Filed Electronically |

**CONSENTED-TO MOTION FOR REVERSAL AND REMAND
PURSUANT TO SENTENCE FOUR OF 42 U.S.C. § 405(g)**

The Defendant, Martin O'Malley, Commissioner of the Social Security Administration ("Commissioner"), has determined that remand of the above-captioned matter is appropriate. Accordingly, the Commissioner respectfully moves this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment reversing his decision with remand of the cause for further administrative proceedings. *See Melkonyan v. Sullivan*, 501 U.S. 89 (1991). Under sentence four of 42 U.S.C. § 405(g), this Court has the power to enter, upon the pleadings and transcript of the record, "a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." *Id.* at 98.

¹ Martin O'Malley became the Commissioner of Social Security on December 20, 2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin O'Malley should be substituted for Kilolo Kijakazi as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

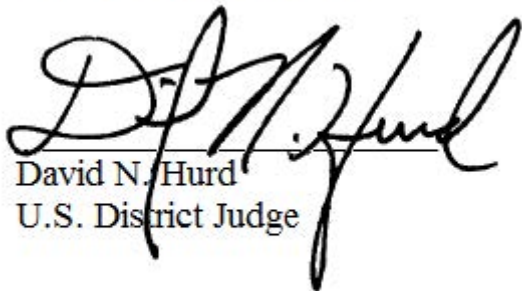
Upon remand by this Court, the Appeals Council will remand this matter to an Administrative Law Judge (“ALJ”). Upon remand, the ALJ shall be instructed to offer Plaintiff the opportunity for a new hearing, and issue a new decision.

For these reasons, the Commissioner respectfully requests that this Court enter an Order and Final Judgment reversing the Commissioner’s decision and remanding the case for further administrative proceedings.

Plaintiff’s counsel has authorized the undersigned to represent that Plaintiff consents to this motion.

DATED: August 6, 2024

IT IS SO ORDERED:


David N. Hurd
U.S. District Judge

Dated: 08-07-2024 _____

Respectfully submitted,

Martin O’Malley,

By His Attorneys

Carla B. Freedman,
United States Attorney

/s/ Hugh Dun Rappaport
Hugh Dun Rappaport
Special Assistant United States Attorney
N.D.N.Y. Bar Roll No. 700992
Office of Program Litigation, Office 2
Office of the General Counsel
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235
Phone: 617-565-2380
Email: Hugh.Dun.Rappaport@ssa.gov